1 INTRODUCTION

The Endangered Species Act (ESA) of 1973, Section 4(f), requires NOAA's National Marine Fisheries Service (NMFS) to develop recovery plans for species listed under the Act. The primary purpose of recovery plans is to identify actions needed to restore threatened and endangered species to the point that they are again self-sustaining elements of their ecosystems and no longer need the protections of the ESA.

This is a recovery plan for the protection and restoration of Lake Ozette sockeye salmon (*Oncorhynchus nerka*), which spawn in Lake Ozette or its tributaries, on the Olympic Peninsula at the western edge of Washington State (Figure 1.1). In 1999, Lake Ozette sockeye were listed under the Endangered Species Act (ESA) as a species threatened with extinction (64 FR 14528, March 25, 1999). The lake, its perimeter shore, and most of the Ozette River, which forms the outlet of the lake to estuary and Pacific Ocean, are included in the 922,000-acre Olympic National Park (ONP).

This plan complements, recognizes, and works within the authorities of the ONP, Clallam County, the Forest Practices Habitat Conservation Plan (FPHCP), the WDNR Habitat Conservation Plan (HCP), and tribal trust and treaty rights, and does not augment or supersede these or other authorities.

This plan is based on an empirical development of hypotheses about what is limiting the survival of Lake Ozette sockeye. These hypotheses are designed to be tested in the course of time, through monitoring the fish, their environment, and the effects of the actions that may be taken to improve the sockeye's environment and survival chances. The process of designing actions based on best available information, then monitoring the results to find out what works best and changing the actions as appropriate, is called adaptive management. This plan is intended as a tool for adaptive management for Lake Ozette sockeye salmon recovery. It can be used by whatever entities and planning groups become involved in voluntary implementation of the plan.

1.1 CONTEXT OF PLAN DEVELOPMENT

While NMFS is the agency responsible for recovery planning for salmon and steelhead under the ESA, the agency believes it is critically important to base ESA recovery plans for salmon on the many state, regional, tribal, local, and private conservation efforts already underway throughout the region. Local support of recovery plans by those whose activities directly affect the listed species, and whose actions will be most affected by recovery actions, is essential. NMFS therefore supports and participates in locally led collaborative efforts to develop recovery plans, involving local communities, state, tribal, and Federal entities, and other stakeholders.

This plan is the product of a collaborative process initiated by NMFS and involving

the participation and contributions of a wide group of private entities, citizens, governments, and sovereigns (Tribes) with the potential to contribute to recovery. In 2005, NMFS and the Lake Ozette Steering Committee, which includes diverse stakeholders, tribal governments, Federal agencies, including Olympic National Park, local citizens, and the State of Washington, began working together to write a draft recovery plan for Lake Ozette sockeye salmon (Appendix A: List of Steering Committee Meeting Participants). The goal was to produce a plan that meets NMFS' ESA requirements for recovery plans as well as the State of Washington's recovery planning needs (http://www.governor.wa.gov/gsro/default/htm).

1.2 PURPOSE OF PLAN

The ESA requires recovery plans to be developed and implemented for species listed as endangered or threatened under the statute. In the context of the ESA, recovery can be defined as the process of restoring listed species and their ecosystems to the point that they no longer need protections under the Act. A recovery plan serves as a road map for species recovery—it lays out where we need to go and how best to get there. Without a plan to organize, coordinate and prioritize the many possible recovery actions on the part of Federal, state, and tribal agencies, local watershed councils and districts, and private citizens, species recovery efforts may be inefficient or even ineffective. Prompt development and implementation of a recovery plan will help target limited resources effectively.

However, recovery plans are guidance documents, not regulatory, and do not obligate anyone except NMFS itself to take any of the actions proposed. The ESA clearly envisions recovery plans as the central organizing tool for guiding each species' recovery process, but it is up to local planning groups and/or jurisdictions to voluntarily implement the actions the plan recommends or proposes.

In many cases, this plan simply acknowledges and recommends coordinating the pre-existing, ongoing recovery efforts and the relevant laws or regulations that are expected to benefit the species and its environment. Accordingly, some of the ongoing actions that are integrated into the plan are required under other, separate resource management regulatory processes, such as implementation of forest practices habitat conservation plans, Clallam County road maintenance, operation of the sockeye hatcheries, and regulation of fisheries that may affect sockeye. In addition, Olympic National Park might implement recommended actions on properties it is responsible for. Similarly, other regulatory authorities might enact regulations based on the recommendations in this plan, such as Clallam County for land use issues, or Washington Department of Fish and Wildlife and the Tribes for harvest issues.

This recovery plan is not an end in itself. After it is adopted, further work will be needed on such important questions as who will do what, the specific costs, the funding sources that may be available, the time frame for various actions, and what opportunities will be

provided for public and agency input and involvement. Work will start on an implementation plan for Lake Ozette sockeye recovery later in 2008.

1.3 ESA REQUIREMENTS

ESA section 4(a)(1) lists factors for re-classification or delisting that are to be addressed in recovery plans (see Section 3.3.3 Listing Factor [Threats] Criteria):

A. The present or threatened destruction, modification, or curtailment of [the species'] habitat or range
B. Over-utilization for commercial, recreational, scientific or educational purposes
C. Disease or predation
D. The inadequacy of existing regulatory mechanisms
E. Other natural or manmade factors affecting its continued existence

ESA section 4(f)(1)(B) directs that recovery plans, to the extent practicable, incorporate:

1. a description of such site-specific management actions as may be necessary to achieve the plan's goal for the conservation and survival of the species;
2. objective, measurable criteria which, when met, would result in a determination, in accordance with the provisions of this chapter, that the species be removed from the list; and;
3. estimates of the time required and the cost to carry out those measures needed to achieve the plan's goal and to achieve intermediate steps toward that goal.

In addition, it is important for recovery plans to provide the public and decision makers with a clear understanding of the goals and scientifically supported strategies needed to recover a listed species (NMFS Interim Recovery Planning Guidance, July 2006).

Once a species is deemed recovered and therefore removed from a listed status, section 4(g) of the ESA requires the monitoring of the species for a period of not less than 5 years to ensure that it retains its recovered status.

1.4 RECOVERY GOALS

The primary goal of ESA recovery plans is for the species to reach the point that it no longer needs the protection of the Act – i.e. the species can be delisted because it has been recovered. This point should be defined in terms of the best available biological science. Biological recovery for a salmon species means that it is naturally self-sustaining – enough fish spawn in the wild and return year after year so they are likely to persist in the long run, defined as the next 100 years. The species also has to be resilient enough to survive catastrophic changes in the environment, including natural events such as floods, earthquakes, storms, and changes in ocean productivity.

Recovery plans may also contain "broad-sense goals" that go beyond the requirements for delisting to acknowledge social, cultural, or economic values regarding the listed species. Recovery goals and delisting criteria are discussed in greater detail in Chapter 3.

1.5 ORGANIZATION OF RECOVERY PLANNING

The spawning and rearing range of Lake Ozette sockeye salmon lies within the Puget Sound "recovery domain," one of four recovery domains that NMFS delineated throughout Washington, Oregon, and Idaho to organize recovery planning for the 17 salmon ESUs currently listed in this region (Figure 1.1).

1.5.1 Technical Recovery Teams

For each domain, NMFS appointed an independent technical recovery team (TRT) that has geographic and species expertise for the listed salmon populations within the domain and can provide a solid scientific foundation for recovery plans. The charge of each TRT is to develop recommendations on biological viability criteria for ESUs and populations, to provide scientific support for local and regional recovery planning efforts, and to scientifically evaluate recovery plans. The TRTs include biologists from NMFS, state, tribal, and local agencies, academic institutions, and private consulting groups.

All TRTs use the same biological principles for developing their ESU and population viability criteria, which are described in a NMFS technical memorandum, *Viable Salmonid Populations and the Recovery of Evolutionarily Significant Units* (McElhany et al. 2000). Viable salmonid populations (VSP) are defined in terms of four parameters: abundance, productivity or growth rate, diversity, and spatial structure. Each TRT's recommendations are based on the VSP framework, as well as on considerations regarding data availability, the unique biological characteristics of the ESUs and habitats in the domain, and the members' collective experience and expertise. NMFS has encouraged the TRTs to develop regionally specific approaches for evaluating viability and identifying factors limiting recovery, but each TRT is working from a common scientific foundation to ensure that the recovery plans are scientifically sound and based on consistent biological principles.

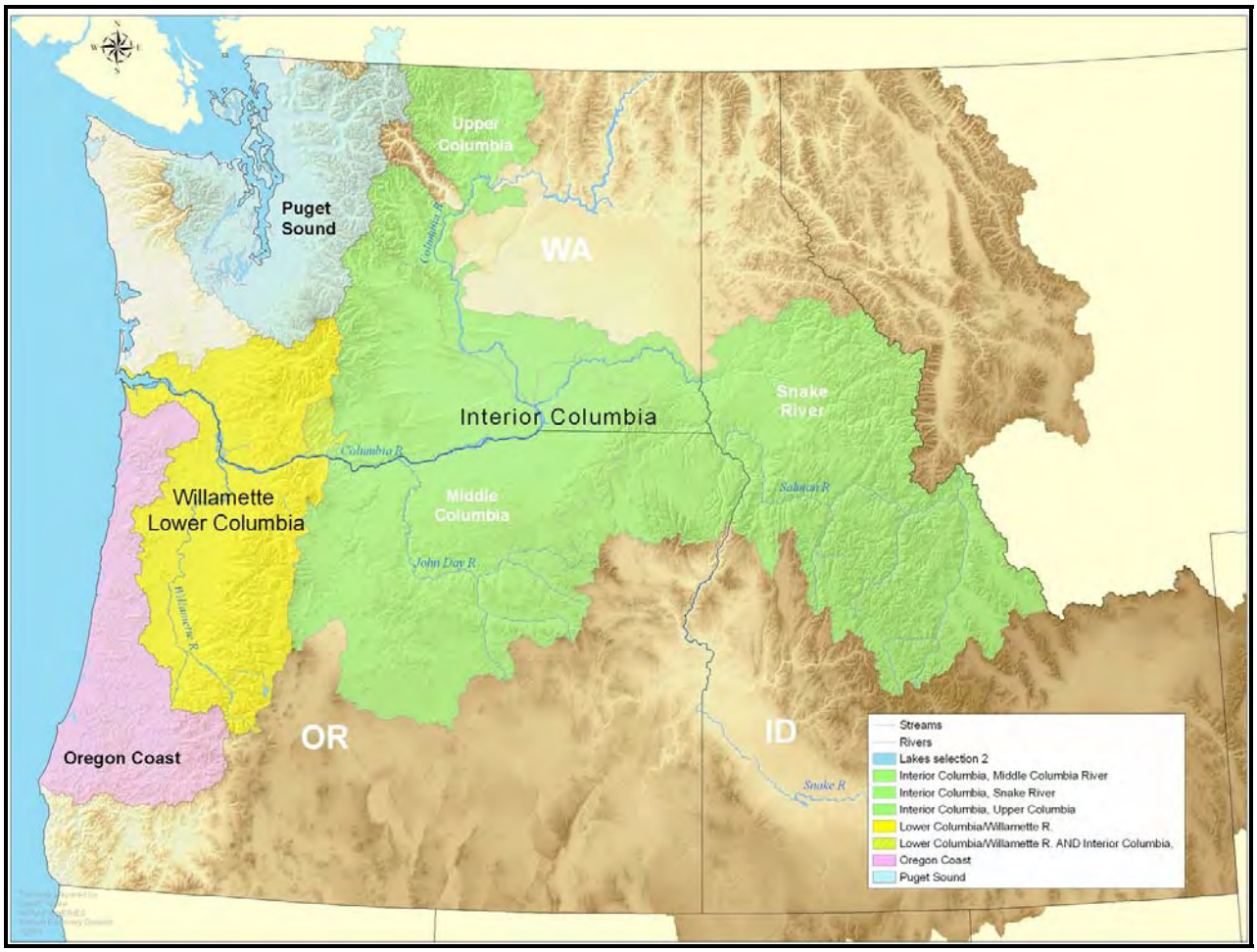

Figure 1.1. NMFS Pacific Northwest Salmon Recovery Domains.

Convened in 2000, the TRT for the Puget Sound domain, which encompasses the listed Lake Ozette sockeye, Hood Canal summer chum, and Puget Sound Chinook salmon ESUs, includes biologists from NMFS and state, tribal, and local resource management entities. A list of members and other information relating to the Puget Sound TRT (PSTRT) is available at http://www.nwfsc.noaa.gov/trt/trt_puget.htm. The PSTRT was tasked with identifying the historical population structure of the Lake Ozette sockeye ESU and recommending viability criteria for the ESU; this work has been made available to the Lake Ozette Sockeye Steering Committee in two draft documents that will be published later in 2007 (Currens et al. 2006; Rawson et al. 2008).

1.5.2 Lake Ozette Sockeye Steering Committee

In each domain, NMFS has worked with state, tribal, local, and other Federal stakeholders to develop a planning forum appropriate to the domain, building to the extent possible on ongoing, locally led efforts. In this case, the local forum is the Lake Ozette Steering Committee. The role of these planning forums is to use technical

products from the TRT and other sources to agree on recommendations to make to NMFS regarding recovery goals, to assess limiting factors, and then to develop locally appropriate and locally supported recovery actions needed to achieve the recovery goals. While these forums also are working from a consistent set of assumptions regarding needed recovery plan elements, the process by which they develop those elements, and the form they take, may differ among domains. For the Lake Ozette sockeye ESU, preliminary limiting factors analyses, watershed assessments, NMFS status reviews, and draft TRT products provided building blocks for the recovery plan.

In order to facilitate communication and coordinate development of a draft recovery plan with diverse interest groups, NMFS worked with an existing, locally based citizen group called the Lake Ozette Steering Committee. The Steering Committee has met periodically since 1981 to discuss natural resource issues related to sockeye salmon. Early participants included the Makah Tribe, ONP, U.S. Fish and Wildlife Service (USFWS), Washington State Department of Fisheries (WDF), University of Washington, and Crown-Zellerbach Corporation. Subsequent meetings resulted in several research projects to gather information on the abundance, distribution, and habitat conditions of the sockeye, but research lagged for lack of funding.

Largely as a result of the ESA 1999 listing, multi-agency efforts to coordinate research and recovery planning resumed, and the Lake Ozette Steering Committee was reorganized and expanded to include NMFS, as well as local landowners and other interests. In 1999 and 2000, the Steering Committee formed a hatchery working group to coordinate issues relating to development of a Hatchery and Genetic Management Plan (HGMP)/Joint Resource Management Plan (JRMP) for Lake Ozette sockeye salmon. A habitat working group was also formed to develop a ranked list of potential limiting factors, as well as a ranked list of research and monitoring priorities. Beginning in October 2005, NMFS coordinated monthly Steering Committee meetings in Sekiu and Port Angeles, Washington and expanded meeting participation to ensure input from a wide range of diverse stakeholders.

The Lake Ozette Steering Committee is made up of representatives from the Makah and Quileute Tribes, Olympic National Park (ONP), Clallam County, local land owners, Washington Governor's Salmon Recovery Office, Washington Department of Fish and Wildlife (WDFW), Washington Department of Natural Resources (WDNR), NMFS, U.S. Environmental Protection Agency (EPA), North Olympic Peninsula Lead Entity (NOPLE), private timber companies, and local citizens. Although it is not a formally sanctioned State of Washington recovery board, the Committee's diverse members have met consistently during plan development and agreed to a decision-making process with the help of a facilitator hired by NMFS.

Monthly Steering Committee meetings enabled NMFS and PSTRT members to share draft recovery plan products and seek Steering Committee review and comment as the draft plan was developed. The preliminary draft Lake Ozette Sockeye Limiting Factors Analysis (Haggerty et al. 2007) and NMFS' Status Report for Completing the Sockeye

Recovery Plan were posted on the North Olympic Peninsula Lead Entity web page at http://noplegroup.org/NOPLE/pages/watersheds/OzetteLakeWatershedPage.htm.

In addition to monthly Steering Committee meetings, NMFS periodically briefed staff from the following key stakeholder groups during development of the draft recovery plan: Olympic National Park, Clallam County Commissioners and Planning Department, Makah Tribe, Quileute Tribe, Olympic Coast National Marine Sanctuary, Lake Ozette watershed landowners, and North Olympic Peninsula Lead Entity.

1.6 TRIBAL TRUST AND TREATY RESPONSIBILITIES

NMFS has treaty and tribal trust obligations that go beyond the ESA requirements for many listed species. Northwest Indian tribes have legally enforceable treaty rights, including reserve of a share of salmon harvest. The tribes are also co-managers with state and Federal agencies in the conduct of salmon stock assessment activities and in regulating harvest and hatchery actions affecting the salmon resource.

The sockeye salmon population recovery goals included in this plan are accentuated by the need to ensure that tribal fishing rights, guaranteed through treaties made between the U.S. Federal Government and the Makah and Quileute Tribes, are preserved. In 1855, the United States entered into the Treaty of Neah Bay with the Makah Tribe. Article 4 of this Treaty secures the Tribe's right of taking fish at usual and accustomed grounds and stations in common with all citizens of the United States. The Lake Ozette watershed and adjacent marine waters were found to be a usual and accustomed fishing area for the Makah Tribe in United States v. Washington, 384 F. Supp. 312, 364 (W.D. Wash. 1974). The Quileute Tribe is a signatory of the Treaty of Olympia (January 1856) with the Hoh Tribe and the Quinault Indian Nation. Under the Treaty of Olympia, the Quileute Tribe reserved off-reservation rights to fish in all usual and accustomed fishing areas, which spanned over 800 square miles of watershed on the Olympic Peninsula, including Lake Ozette and the adjacent tidewater and saltwater areas (United States v. Washington, 384 F. Supp. 312, 364 [W.D. Wash. 1974]).

Under the Federal trust responsibility, Federal agencies, including NMFS, have a legal obligation to support the Tribes in efforts to preserve and rebuild Treaty salmon fisheries in their usual and accustomed fishing areas. The concept of "trust responsibility" is derived from the special relationship between the Federal Government and Indians, first delineated by Supreme Court Chief Justice John Marshall in Cherokee Nation v. Georgia, 30 U.S. 1 (5 Pet.) (1831). Later, in Seminole Nation v. United States, 316 U.S. 286 (1942), the Court noted that the United States "has charged itself with moral obligations of the highest responsibility and trust" toward Indian Tribes. The scope of the Federal trust relationship is broad and incumbent upon all Federal agencies. The U.S. Government has an obligation to protect tribal land, assets, and resources, as well as a duty to carry out the mandates of Federal law with respect to American Indian and Alaska Native Tribes. This unique relationship provides the Constitutional basis for

legislation, Treaties, and Executive Orders that recognize unique rights or privileges to Native Americans to protect their property and their way of life.

In furtherance of this trust responsibility, and to demonstrate respect for sovereign tribal governments, the principles described above were incorporated into Secretarial Order No. 3206, dated June 5, 1997, and signed by the Secretaries of Commerce and Interior. This Order, "American Indian Tribal Rights, Federal-Tribal Trust Responsibilities, and the Endangered Species Act," directs both Departments to carry out their responsibilities under the ESA in a manner that harmonizes the Federal trust responsibility with tribes, tribal sovereignty, and statutory missions of the Departments, so as to avoid or minimize the potential for conflict and confrontation. The Order directed the Departments to work directly with Indian tribes on a government-to-government basis to promote healthy ecosystems, recognized the unique legal status of Indian lands, and affirmed tribal management authorities and Federal consultation responsibilities in carrying out the conservation measures of the ESA.

The NMFS trust responsibility for tribal treaty rights is further articulated in a 1998 letter from Terry Garcia (NOAA) to Ted Strong (CRITFC): "It is our policy that the recovery of salmonid populations must achieve two goals: (1) the recovery and delisting of salmonids listed under the provisions of the ESA; (2) the restoration of salmonid populations, over time, to a level to provide a sustainable harvest sufficient to allow for the meaningful exercise of tribal fishing rights. We see no conflict between the statutory goals of the ESA and the federal trust responsibilities to Indian tribes. Rather, the two federal responsibilities complement one another. Unfortunately, in light of the long-term decline of salmonid populations, we cannot achieve either goal within a short time frame. It is important that we achieve a steady upward trend toward ESA delisting in the near term, while making river and land improvements for the long term" (NOAA 1998).

Achieving the basic purpose of the ESA (to bring the species to the point that it no longer needs the protection of the Act) may not by itself fully meet these trust responsibilities and treaty obligations, although it will lead to major improvements in the current situation. Ensuring that salmon populations are restored to sufficient abundance, productivity, diversity, and spatial distribution levels that can allow sustainable harvest can be an important element in fulfilling Federal trust and treaty rights responsibilities as well as garnering public support for recovery plans.

It is appropriate for recovery plans to take these considerations into account and plan for a recovery strategy that includes harvest. In some cases, increases in the naturally spawning populations may be sufficient to support harvest. In others, the recovery strategy may include appropriate use of hatcheries to support a portion of the harvest. So long as the overall plan is likely to achieve the recovery of the listed ESU, it will be acceptable as a recovery plan.

As noted in the above statement by NOAA, ESA and tribal trust responsibilities complement one another. Both depend on a steady upward trend toward ESA recovery and delisting in the near term, while making aquatic habitat, harvest, and land

management improvements for the long term. Furthermore, ESA delisting cannot occur until both biological objectives and the listing factors are considered and NMFS determines, based on an evaluation of the listing factors, that the ESU is no longer likely to require the protection of the Act. Therefore, NMFS will make no delisting decision until it is clear that the threats to the ESU have been addressed and that the status and trends of both the fish and their habitats will be healthy and sustainable in the long term.

1.7 OLYMPIC NATIONAL PARK

Olympic National Park protects 922,651 acres of three distinctly different ecosystems — rugged glacier-capped mountains, more than 70 miles of wild Pacific coast, and stands of old-growth and temperate rain forest. Olympic National Park's 3,500 miles of rivers and streams give home to 29 species of native freshwater fish, including numerous species of Pacific salmon and steelhead. Five species of fish have special status within Olympic National Park: Lake Ozette sockeye salmon, Puget Sound Chinook salmon, Puget Sound steelhead, Hood Canal summer chum salmon, and the Coastal-Puget Sound population of bull trout that is part of the Olympic Peninsula Management Unit. Areas designated as ESA critical habitat and essential habitat for Pacific salmonids are also within or near the park.

Lake Ozette sockeye salmon are the only ESA listed species administered by NMFS that have a significant portion of their critical habitat located within or immediately adjacent to a national park. Consequently, any recovery actions implemented need to be consistent not only with the requirements of the Endangered Species Act, but also with the National Park Service (NPS) laws, mandates, and policies, and the establishment legislation of Olympic National Park.

Specific NPS laws and mandates include the 1916 Organic Act that created the National Park Service; the General Authorities Act of 1970; the act of March 27, 1978, relating to the management of the national park system; and the National Parks Omnibus Management Act (1998).

The NPS Organic Act (16 USC § 1) provides the fundamental management direction for all units of the national park system:

> [P]romote and regulate the use of the Federal areas known as national parks, monuments, and reservations…by such means and measures conform to the fundamental purpose of said parks, monuments and reservations, which purpose is to conserve the scenery and the natural and historic objects and the wild life therein and to provide for the enjoyment of the same in such manner and by such means as will leave them unimpaired for the enjoyment of future generations.

The National Park System General Authorities Act (16 USC § 1a-1 et seq.) affirms that while all national park system units remain "distinct in character," they are "united through their interrelated purposes and resources into one national park system as

cumulative expressions of a single national heritage." The act makes it clear that the NPS Organic Act and other protective mandates apply equally to all units of the system. Further, amendments state that NPS management of park units should not "derogat[e]…the purposes and values for which these various areas have been established."

The mission of the National Park Service at Olympic National Park is rooted in and grows from the park's legislated mandate found in the Act of Congress establishing the park on June 29, 1938 (which abolished the Mount Olympus National Monument established on March 3, 1909 and provided authority to proclaim certain enlargements) and in subsequent Congressional legislation.

The act establishing Olympic National Park, approved on June 29, 1938 (H.R. 10024) and the accompanying House Report (Report No. 2247) more specifically defined the purposes of the park, stating:

> The purpose of the proposed national park is to preserve for the benefit, use and enjoyment of the people, the finest sample of primeval forests of Sitka spruce, western hemlock, Douglas fir, and western red cedar in the entire United States; to provide suitable winter range and permanent protection for the herds of native Roosevelt elk and other wildlife indigenous to the area; to conserve and render available to the people, for recreational use, this outstanding mountainous country, containing numerous glaciers and perpetual snow fields, and a portion of the surrounding verdant forests together with a narrow strip along the beautiful Washington coast.

The park was subsequently enlarged a number of times: 1) Significant rain forest acreage was added in 1940; 2) The watershed of the Port Angeles water supply was added in 1943; 3) A portion of the Pacific coast area (including the western shore of Lake Ozette) and the Queets corridor was added in 1953. Additions at Lake Ozette, Shi Shi Beach, Point of Arches, Heart O' the Hills Parkway and the Queets were authorized in 1976 by Public Law 94-578. In 1986, "all submerged lands and waters of Lake Ozette, Washington, and the Ozette River, Washington" were added by legislation.

An additional purpose of the park is to preserve for future use and enjoyment the character and values of the Olympic Wilderness. On November 16, 1988, Congress enacted the Washington Park Wilderness Act (P.L. 100-668) which designated 876,669 acres of Olympic National Park as wilderness and 378 acres as potential wilderness. These lands, known as the Olympic Wilderness, are managed in accordance with applicable Federal laws, regulations, policies, and plans including the Wilderness Act of 1964, NPS Wilderness Preservation and Management policies (Director's Order-41, NPS 1999), the Olympic National Park Backcountry Management Plan (amended in 1992), and Olympic National Park's General Management Plan (in preparation).

When the Washington Park Wilderness Act was passed, Congress also recognized a potential conflict between the establishment of wilderness areas and the use of adjacent lands. Specifically, "in response to concerns raised as to the impacts on ecosystems and

natural resources within national parks from land use activities outside of the national park boundaries," the Senate Committee on Energy and Natural Resources directed the National Park Service to conduct a study of the watershed of Lake Ozette, "with particular focus on the immediate scenic backdrop of the Lake." The committee further directed that the study should examine and consider the various alternatives to protect this area, including acquisition, land exchanges, or acquisition of interests in the land. Olympic National Park's General Management Plan in part addresses this issue.

Additional Federal legislation that affects the management of national park areas includes the National Environmental Policy Act, the Endangered Species Act, Clean Water and Clean Air Acts, the National Historic Preservation Act, and other legislation and regulations ensuring the protection of resources and visitor use. In addition, *Management Policies 2006*, the basic service-wide policy document of the National Park Service, also affects park management.

Olympic National Park was established by law with exclusive jurisdiction. Within Olympic National Park, the NPS is responsible for adhering to the above Federal laws, policies, and guidance documents to prevent impairment of park resources and values, to ensure conservation and protection of park resources, to avoid unacceptable impacts, and to allow the appropriate use of the parks. The NPS decision maker, generally either the park superintendent or regional director, is responsible for assuring that all actions that are proposed within the park avoid impairment and unacceptable impacts.

The Federal decision making process is tied to the National Environmental Policy Act of 1969 (NEPA), Council of Environmental Quality and Department of the Interior NEPA regulations, and subsequent NPS policies contained in NPS Director's Order-12. Any action, project, activity, or program that is funded in whole or in part by a Federal agency, is under the direct or indirect jurisdiction of a Federal agency that could affect park resources, or is proposed on park lands requires an analysis under NEPA. When an outside entity proposes an action that would occur in the park or could impact park resources, generally that entity works with the park to complete the environmental analysis.

Prior to any action directed at the recovery of Ozette sockeye within Olympic National Park, an environmental analysis must be completed to: 1) Ensure that recovery actions proposed within the park are consistent with applicable laws and regulations; 2) Ensure that all other recovery actions are consistent with the NPS *Management Policies 2006* and other relevant policy directives and plans (e.g. ONP General Management Plan); 3) Ensure that consultation with area tribes is completed; 4) Ensure public involvement in the decision making process; and, 5) Ensure the appropriate permits are obtained if the proposed actions are approved by the NPS decision maker. This analysis must adhere to NPS guidelines as detailed in NPS Director's Order-12.